

**Town of Amherst**  
**Zoning Board of Appeals - Special Permit**

*DECISION*

**Applicant/Owner:** Mr. & Mrs. Aaron Skoglund

**Date application filed with the Town Clerk:** June 19, 2009

**Nature of request:** Request for Special Permit to keep eight (8) chickens (hens) under Section 5.014 of the Zoning Bylaw

**Address:** 38 Jenks Road (Map 15B, Parcel 108, RN Zoning District)

**Legal notice:** Published on June 24 and July 1, 2009 in the Daily Hampshire Gazette and sent to abutters on June 24, 2009

**Board members:** Tom Simpson, Hilda Greenbaum and Tom Ehrgood

**Submissions:**

- One (1) copy of Memorandum, ZBA FY2009-00040, dated July 2, 2009;
- One (1) copy of the ZBA application, filed with the Town Clerk on June 19, 2009;
- One (1) copy of Management Plan;
- One (1) copy of a site plan (Town GIS map);
- One (1) copy of construction plans;
- One (1) copy of ZBA FY2009-00005, for reference purposes, submitted by staff.

**Site Visit:** July 6 and July 8, 2009

Tom Simpson, Hilda Greenbaum and Tom Ehrgood viewed the site. The Board members observed the following:

- The location of the single family dwelling on the north side of Jenks Street bordered by the east and west with other single family dwellings and the north by protected conservation lands (Amethyst Brook);
- The rear yard of the property, containing a slope downward, containing areas of lawn where the chickens would be moved about, toward the woodland;
- The location of the east property line and existing swing set;
- The location of the west property line containing a large stand of evergreen trees located on the subject property;
- The location of an existing shed at the rear of the property and in the woodland area of the property.

**Public Hearing:** July 9, 2009

Ms. Skoglund presented the application. She stated the following:

- Her and her husband, Aaron Skoglund, would like to keep eight (8) hens on their property and will not be keeping any roosters;
- They plan to keep the chickens in a movable coop that is approximately six (6) feet by eight (8) feet;
- The coop will be moved every day or two throughout the grass portion of their yard;
- The chickens will be contained within the coop and will not “free-range” throughout the entire property;
- The coop will contain the water and feed necessary for eight (8) chickens;
- They are asking permission to keep eight (8) chickens based upon the size of their family, and the design and capacity of the coop;
- They have consulted with the Wetlands Administrator who indicated that if the coop is kept within the grass area and not within the woodland, no permit would be required from the Conservation Commission;
- They have prepared and submitted an aerial photograph of the property with the area where they intend to move the coop indicated, and that they plan to keep the coop stationary, near and behind the east side of the house, during the winter months.

Mr. Simpson asked where they plan to keep the feed for the chickens. Ms. Skoglund stated that they intend to keep the feed in steel containers in the basement of their home.

Mr. Simpson stated that the plans for the coop show a door that would allow the chickens to go outside and asked whether they will let the chickens out. Ms. Skoglund stated that the door is designed so that it can be shut and that they don't intend to let the chickens wander outside of the coop.

Ms. Greenbaum asked the applicant what they would do in the event they go away for several days. Ms. Skoglund stated that they can put enough food and water in the coop for about four days, but noted that they have friends who would be happy to come by and provide food and water if they are away.

Mr. Ehrgood asked the applicant how close to the neighboring properties the coop would be positioned. Ms. Skoglund stated that they currently have a swing set that is near the east property line and that because there is not much screening on that side, they would not put the coop closer than the swing set. She added that on the west side there is a mature stand of tall evergreen trees that screen the property and that the coop would not go any closer to that property line than the existing trees.

Mr. Simpson asked about the manure and the disposal of hay, or bedding material. Ms. Skoglund stated that during the warmer months there is no need for bedding, or hay, because the coop would be moved every day or two and that there will be no accumulation of manure. She stated that in the winter months hay would be placed in the stationary coop and it would be cleaned once every month, or more, if needed. She added that the hay would be removed and composted in their compost pile at the back of the property.

Mr. Simpson stated that chicken waste can have a strong odor and asked the applicant if they have ever composted animal waste materials before. Ms. Skoglund stated that they currently compost at their home and have added animal wastes before without any odor problems. She added that they have done a lot of research and have talked to many people and friends who do this without any problems.

Ms. Greenbaum stated that she would like to offer the applicants the option of keeping the chickens outside within a confined fenced area. Ms. Skoglund stated that she had thought of that after the application was submitted but didn't want to change the nature of the application. She added that they would be agreeable to allowing the chickens to be outside in a small fenced in area, but they did not request that.

Ms. Greenbaum asked how much outside area they would need for the eight (8) chickens and how tall a fence would need to be to keep them in a contained area. Ms. Skoglund stated that each chicken might require 4 sq. ft. of area outside and would probably require a fence about 4 or 5 feet tall. She stated that there are movable chicken fences that are available that allow the fence to be quickly moved and can be easily put into various configurations. She stated they want to keep the chickens in such a way that is compatible with the neighbors. She noted that she didn't apply for keeping the chickens outside of the coop, but would certainly like the option.

Ms. Greenbaum MOVED to close the public hearing. Mr. Ehrgood seconded the motion and the Board VOTED unanimously to close the public hearing.

**Public Meeting:**

During the public meeting the Board drafted conditions and findings that would be appropriate if the Special Permit were to be approved.

The Board discussed allowing the chickens to be outside, within a confined fenced area. The Board discussed the size of the area in which the chickens might be allowed to roam. The Board determined that a small, 8 foot by 8 foot area, 64 sq. ft., would be acceptable for allowing the chickens to be outside of the coop. The Board determined that the exterior fenced area should be directly adjacent to the coop.

The Board discussed the nature of the request and that the keeping of animals can often cause problems and/or issues with neighbors. The Board discussed requiring a short expiration on the Special Permit in order for the proposal to be evaluated and for a future Board to determine if the use is compatible with neighboring property owners. The Board discussed what process would be best to allow for all the neighbors to be properly notified when the applicant comes back before the Board. The Board determined that they would require the owner to come back to the Board at a public meeting 18 months from when the decision is filed with the Town Clerk. The Board determined that the owner would be required to apply for a certified abutter's list at least 14 days prior to coming back to the Board at a public meeting.

**Findings:**

The Board found under Section 10.38 of the Zoning Bylaw, Specific Findings required of all Special Permits, that:

10.380 and 10.381 – The proposal is suitably located in the neighborhood and is compatible with existing uses. The keeping of livestock or poultry is a use allowed with a Special Permit and several conditions will be imposed to help ensure the use is compatible with the neighborhood. With the conditions as written, the use will be required to be reviewed in 18 months from the filing of the permit with the Town Clerk. This provision is intended to allow for adjustments if the use has unintended impacts on the neighborhood. The proposal provided multiple measures to ensure compatibility with the existing uses in the area, such as the utilization of a coop, a small fenced area outside, storage of feed and materials inside the dwelling and continual movement of the coop to reduce accumulation of manure and odor. The permit requires that the coop be located so that it is not visible from the street.

10.382, 10.383 and 10.385 – The proposal would not constitute a nuisance and reasonably protects the adjoining premises against detrimental or offensive uses on the site and will not be a substantial inconvenience or hazard to abutters, vehicles or pedestrians. The moveable coop will not be situated in close proximity to surrounding homes. To ensure that the use does not become a nuisance to nearby property owners, the owner must notify the property owners via certified abutter's list and appear before the Board at a public meeting after 18 months for the Board to evaluate the impacts of the use. The approval allows for a small fenced area to be established adjacent to the coop. This provision may eliminate the chickens from running free within the property and onto other adjacent property owners. The permit requires that the coop be located so that it is not visible from the street.

10.384 – Adequate and appropriate facilities would be provided for the proper operation of the proposed use. The property contains an existing grass area in the rear yard. The proposal is to move the coop with in this area and outside of protected wetland buffer areas that border the rear of the property. The coop and small fenced area are intended to provide adequate areas for the chickens to roost. Additionally, animal feed is required to be kept in rodent and vermin proof containers inside the basement of the dwelling. All other wastes associated with the use are to be properly composted.

10.389 – The proposal provides adequate methods of disposal and/or storage for sewage, refuse, recyclables and other wastes. The proposal provides a movable coop system that is intended to eliminate the need for disposal of waste from the animals. Any waste produced when the coop is stationary during the winter months shall be properly composted.

10.398 – The proposal is in harmony with the general purpose and intent of this Bylaw because it promotes the health safety, convenience and general welfare of the inhabitants of the Town of Amherst. This permit allows for the keeping of eight (8) hens as a way for the property owner to raise their own eggs. The proposal provides for a movable coop which is intended to reduce the impact of odor on adjacent properties and shall not be visible from the street. The permit requires a review of the use at a public meeting to ensure that the use is maintained in a way that is compatible with the neighborhood.

**Public Meeting – Zoning Board Decision**

Mr. Simpson moved to APPROVE the application with conditions. Ms. Greenbaum seconded the motion.

For all of the reasons stated above, the Board VOTED unanimously to grant a Special Permit, ZBA FY2009-00040, to allow the keeping of eight (8) chickens (hens, only) under Section 5.014 of the Zoning Bylaw, as applied for by Mr. & Mrs. Skoglund, at 38 Jenks Street (Map 15B, Parcel 108, RN Zoning District), with conditions.

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THOMAS SIMPSON

\_\_\_\_\_  
HILDA GREENBAUM

\_\_\_\_\_  
TOM EHRCOOD

FILED THIS \_\_\_\_\_ day of \_\_\_\_\_, 2009 at \_\_\_\_\_,  
in the office of the Amherst Town Clerk \_\_\_\_\_.

TWENTY-DAY APPEAL period expires, \_\_\_\_\_ 2009.

NOTICE OF DECISION mailed this \_\_\_\_\_ day of \_\_\_\_\_, 2009  
to the attached list of addresses by \_\_\_\_\_, for the Board.

NOTICE OF PERMIT or Variance filed this \_\_\_\_\_ day of \_\_\_\_\_, 2009,  
in the Hampshire County Registry of Deeds.

**Town of Amherst**  
**Zoning Board of Appeals**

*SPECIAL PERMIT*

The Amherst Zoning Board of Appeals hereby grants a Special Permit, ZBA FY2009-00040, to allow the keeping of eight (8) chickens (hens, only) under Section 5.014 of the Zoning Bylaw, as applied for by Mr. & Mrs. Skoglund, at 38 Jenks Street (Map 15B, Parcel 108, RN Zoning District), with the following conditions:

1. There shall be no more than eight (8) chickens (hens, only) on the premises and at no time shall there be any roosters.
2. The coop shall be built substantially in accordance with the design plans submitted and approved by the Zoning Board of Appeals on July 9, 2009.
3. The keeping of chickens shall be in accordance with the Management Plan approved by the Zoning Board of Appeals approved on July 9, 2009.
4. A fenced in area of no greater than 64 sq. ft., may be erected adjacent to the coop such that chickens exiting the coop can go only into the fenced area. Said fence shall be of a height that is sufficient to contain the chickens, but shall not exceed 5 feet in height.
5. All feed supply not within the coop, shall be kept in rodent and vermin proof containers and shall be stored within the owners' dwelling.
6. Any waste products produced by the use shall either be removed from the property, or properly composted so as to prevent noxious odors.
7. The owner shall appear before the Zoning Board of Appeals at a public meeting 18 months after the date of filing of this permit with the Town Clerk. The owner shall be required to obtain and submit a Certified Abutter's List and submit said list to the Planning Department no later than 14 days prior to the date of the public meeting.
8. This permit shall expire upon change of ownership or tenancy of the property.

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THOMAS SIMPSON, Chair  
Amherst Zoning Board of Appeals

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DATE